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 17 Attorneys for EDWIN G. MARSHALL and JILL C.  
 18 MARSHALL, Creditors

19  
 20 IN THE UNITED STATES BANKRUPTCY COURT  
 21  
 22 FOR THE DISTRICT OF NEVADA

23  
 24 In re:  
 25 MEDIZONE INTERNATIONAL, INC.,  
 26  
 27 Debtor.

28 Case No. 18-12662-ABL  
 1 Chapter 7  
 2 Date of Examination: March 13, 2019  
 3 Time of Examination: 11:00 a.m. E.S.T.

4  
 5 **EX PARTE MOTION FOR RULE 2004 EXAMINATION OF PHILIP A. THEODORE**

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 7 Creditors EDWIN G. MARSHALL and DR. JILL C. MARSHALL (collectively, the  
 8 “Marshalls”) hereby move the above-captioned Court, on an *ex parte* basis (the “Motion”), for entry  
 9 of an order pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy  
 10 Rules”), ordering PHILIP A. THEODORE (“Mr. Theodore”), an individual, to appear for  
 11 examination, taken before a certified court reporter and which will continue from day to day, except  
 12 holidays and weekends, until completed. In support of the Motion, the Marshalls respectfully  
 13 represent as follows:

14  
 15 I. **BACKGROUND**

16  
 17 1. As of May 8, 2018, the date of the commencement of this chapter 7 case (the “Petition  
 18 Date”), Medizone International, Inc., the debtor herein (the “Debtor”), was a public company with

1 operations in Ontario, Canada. The Debtor developed disinfection solutions for use in hospitals,  
2 other healthcare facilities and other institutions. In particular, the Debtor developed and patented a  
3 disinfection system named AsepticSure®, which utilizes hydrogen peroxide vapor and ozone in a  
4 process that achieves dramatic reductions of bacterial and viral pathogens.

5 2. Mr. Theodore was the Debtor's Executive Vice President – Operations and  
6 Administration, General Counsel and Corporate Secretary from November 1, 2017 until the Petition  
7 Date.

8 3. The Marshalls are the former Chairman/C.E.O. and Director of Operations,  
9 respectively, of the Debtor. The Marshalls retired from those positions in February 2017, entering  
10 into separation agreements with the Debtor, pursuant to which the Marshalls hold unsecured  
11 promissory notes issued by the Debtor in an aggregate amount in excess of \$1,500,000. The notes  
12 were in substantial default prepetition, for lack of monthly payments owed to the Marshalls in 2017  
13 and 2018.

14 4. Based on the Debtor's defaults to the Marshalls and others, the Marshalls, along with  
15 three other creditors, filed an involuntary chapter 11 petition (as amended, the "Chapter 11 Petition")  
16 initiating a chapter 11 case in April 2018.

17 5. On May 8, 2018, the Debtor filed a voluntary chapter 7 petition (the "Chapter 7  
18 Petition") in this Court, commencing this case no. 18-12662. Lenard Schwartzer (the "Trustee") was  
19 appointed as trustee of the Debtor's chapter 7 estate and continues to serve in that capacity.

20 6. The Marshalls timely filed claims in this chapter 7 case: Claim no. 1 in the amount of  
21 \$466,812.00 filed by Dr. Jill Marshall, and Claim no. 2 in the amount of \$1,118,448.00 filed by Mr.  
22 Marshall.

23 7. Mr. Theodore timely filed Claim no. 75 in the amount of \$271,244.00 in this chapter 7  
24 case.

25 8. The Marshalls seek to examine Mr. Theodore in order to investigate the Debtor's  
26 prepetition business operations, Mr. Theodore's conduct as the Debtor's Executive Vice President,  
27 General Counsel and Corporate Secretary, the Debtor's board of directors' decision to commence the  
28

1 Debtor's chapter 7 case herein, as well as related matters, in order to determine the bona fides of Mr.  
 2 Theodore's proof of claim (and the claims of other former insiders of the Debtor), and to assess  
 3 whether the Debtor holds any claims against third parties.

4 9. Therefore, the Marshalls seek to examine Mr. Theodore to obtain full information and  
 5 documentation of any events, circumstances, actions, communications, documents or agreements  
 6 related to the aforementioned.

7 10. The Marshalls have previously requested Mr. Theodore to produce related documents  
 8 on an informal basis, by letter dated January 11, 2019. A copy of that letter is attached hereto as  
 9 **Exhibit "A."** However, neither Mr. Theodore nor any other addressees of the letter responded in any  
 10 manner to the letter by January 22, 2019, the deadline identified in counsel's letter.

11 11. The Marshalls are informed that Mr. Theodore resides in Atlanta, Georgia.

12 **II. CONCLUSION**

13 WHEREFORE, the Marshalls pray for entry of an order, pursuant to Rule 2004 of the  
 14 Bankruptcy Rules, directing PHILIP A. THEODORE to appear for examination on **March 13, 2019**  
 15 at **11:00 a.m. E.S.T.** at a location designated by the Marshalls in Atlanta, Georgia, or at such other  
 16 place, date and/or time as may be mutually agreed upon by the Marshalls and Mr. Theodore.

17 DATED: January 23, 2019

18 MEYERS LAW GROUP, P.C.

19  
 20 By /s/ Merle C. Meyers  
 21 Merle C. Meyers, Esq.  
 22 Attorneys for Edwin G. Marshall and  
 23 Jill C. Marshall, Creditors